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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council Resolution 1996/31.

[11 January 1999]

GE.99-10571 (EXT)

The rights of the Iraqi people and the implications of the "military strikes" of December 1998

1. The sanctions imposed on the Iraqi State by the United Nations Security Council eight years ago has developed into an endless war waged by the United States and Great Britain against the Iraqi people. The confusion of the United Nations and United States roles and Washington's unilateral interpretations of the Security Council resolutions have been succeeded by the United States' exclusive power of decision-making and action. Criticism by the Secretary-General of the United Nations of the December 1998 air raids has been rejected by the "Clinton doctrine" - reminiscent of the famous "Brezhnev doctrine" of limited sovereignty - founded on the thesis that "the United States and Great Britain are more faithful to the aims of the United Nations and its texts than the United Nations itself!" (International Herald Tribune, 19-20 December 1998). The United States has decided that it is best qualified to decide what is consistent with the law and with justice, effectively stripping the United Nations of the monopoly conferred on it by the Charter.

2. The American and British "strikes" on Baghdad in December 1998 occurred as the Security Council was meeting to examine the (contradictory) reports by UNSCOM 1/ and IAEA on Iraq's disarmament measures. The United Nations learned about the bombing on CNN!

3. The agreement concluded on 23 February 1998 between Kofi Annan for the United Nations and Tariq Aziz for the Iraqi State, which established that Iraq's legitimate concerns for its security, dignity and national sovereignty would be respected, was swept aside by the United States. The same is true, under American pressure, of the initial Security Council resolution of 3 April 1991. This text defined the Iraqi State's obligations, but added that Iraq's disarmament measures "represent steps towards the goal of establishing in the Middle East a zone free of weapons of mass destruction and of all missiles for their delivery" (point 14). The resolution also mentioned "the threat that all weapons of mass destruction pose to peace and security in the area and the need to work towards the establishment in the Middle East of a zone free of such weapons [through] balanced and comprehensive control of armaments in the region".

4. No sanctions have been taken against the signatories of this resolution who have by no means fulfilled their part of the obligation. Only Iraq, and in some degree Iran, are effectively targeted while the entire region is over-armed, thereby deriding the United Nations, as a peace institution and the watchdog of international legality. The purpose of the United Nations sanctions is the restoration of international legality and peacekeeping, which presupposes the lifting of the sanctions at a precise time determined by objective criteria. The official United States position is quite different!. Mrs. Albright, the United States representative, said on 26 March 1997, that the United States agreed with those countries that say that sanctions will be lifted if Iraq

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1/ Mr. Butler's report, compiled for UNSCOM, was prepared with the help of the Israeli intelligence services and members of the United States National Security Agency.

fulfils its obligations to disarm itself of weapons of mass destruction. She went on to say that her country's position, which was quite firm, was that Iraq must provide proof of its peaceful intentions, but that there was abundant proof that Saddam Hussein's intentions would never be peaceful.

5. It is the Iraqi regime itself that is being targeted. Which is why in the autumn of 1998 the United States Congress voted US $1 million in aid to the Iraqi opposition and also why every effort is being made to overturn Security Council resolution 986 of 1995, implemented in 1996 and extended in 1998 through resolution 1152 entitled "Food for Oil" (without resources, Iraq cannot possibly sell its authorized oil quotas).

6. The aim of the United States and its British "backers" is not respect for international law. The United States is determined to impose its own strategy in the region, which is to:

a) Retain unrestricted access to low-cost oil at a low price (the region's reserves will long be vital to the West's economy):

b) To maintain a privileged alliance with Israel at any price.

The impotence of Russia and China and France's over-caution prevent the Security Council from regaining control of the situation, as it should under the Charter.

7. The services responsible for the United Nations humanitarian programme for Iraq, as well as the various United Nations agencies that lend assistance to the Iraqi people, overtly challenged by UNSCOM, are unable to provide the Iraqi people with the compensatory measures required for their survival in the face of brutal and inhumane sanctions. Dr. Halliday, former director of the humanitarian programme, denounces the fact that "even without the military strikes, the sanctions account for the deaths of eight million people every month" (Le Monde Diplomatique, January 1999). No justification for these murderous sanctions is to be found in the Charter of the United Nations.

8. The December 1998 military strikes against the city and inhabitants of Baghdad and the Bassorah refinery (vital for implementation of the "Food for Oil" resolution) constitute a flagrant violation of humanitarian law. The Fourth Geneva Convention relative to the Protection of Civilian Persons in Times of War and the 1977 protocols establish closer ties between humanitarian law and international human rights law, particularly Protocol 1, article 72, and are aimed at general protection of civilians in the event of armed conflict (even if a state of war has not been recognized by one of the de facto belligerents). Protocol II, article 4, stipulates that "collective punishments" are prohibited. Protocol I, article 85, defines as a crime "an indiscriminate attack on the civilian population causing serious injury to body or health". The United States military strikes thus constitute a war crime under humanitarian law, even if they are found to inflict only "accidental damage" on civilians (owing to the lack of precision of the strikes) because they were not a military decision. The keystone of humanitarian law is to be found in the basic rule: "In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects" (Protocol I, article 57).

9. It is appropriate, therefore, for the Commission on Human Rights to look into the implications of the December 1998 military strikes against Iraq's civilian population, inasmuch as international humanitarian law - a fragile law at best - is indissociable from international human rights law and remains the last bulwark against barbarity.